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§ 2254

DISTRICT COURT  
PORTLAND, MAINE  
RECEIVED AND FILED

2004 FEB -3 P 1:24

CHAD NATHAN BARROWS, SSN 004226467

B.O.P. I.D. No. 04256-036

BY DEPUTY CLERK

Cumberland County Gaol I.D. No. 255502

Cumberland County Sheriff's Dept.,

50 County Way, Portland, ME 04102-2756

IN THE UNITED DISTRICT COURT  
FOR THE DISTRICT OF MAINE  
CASE NO. \_\_\_\_\_

CHAD NATHAN BARROWS, PETITIONER

V.

ATTORNEY GENERAL For  
the United States

Department of Justice, Respondent  
and

ATTORNEY GENERAL TOM RILEY  
FOR THE COMMONWEALTH OF

MASSACHUSETTS, ADDITIONAL  
RESPONDENT

# PETITION

1. Commonwealth of Massachusetts, Dept. of  
The Trial Court, Salem District Court,  
65 Washington St., Salem, MA 01970.
2. November 19, 1999 (11-19-99).
3. Count 1: 8 months County Gaol concurrently.  
Count 2: 2 years County Gaol concurrently.  
Count 3: 2 years County Gaol concurrently.
4. 3 counts: Restraining Order Violation.
5. Guilty Plea.
6. (b) Judge Only.
7. Yes.
8. No.
9. None.
10. Yes.
11. (a)(1) Commonwealth of Massachusetts,  
Appeals Court, Docket No. 01-P-1066,  
Commonwealth vs. Chad N. Bartos (1)(617-725-8106)  
[www.socialaw.com/appslip/appApr03n.html](http://www.socialaw.com/appslip/appApr03n.html)  
(2) Probation Revocation Hearing.  
(3) Fraudulent Misrepresentations  
by Attorney John J. Courtney for the

Commonwealth of Massachusetts, Committee  
 For Public Counsel Services, Chief Counsel  
 William Leahy et al, 44 Bromfield St.,  
 Boston, MA 02108 and Commonwealth  
 of Massachusetts, Trial Court Dept.,  
 Administrative Management Chief Justice  
 Robert A. Cornetta, Salem District  
 Court, 65 Congress St., Salem, MA  
 01970.

(4) No.

(5) Judgements of Salem District  
 Court Affirmed.

(6) April 9, 2003.

(b)(1) Supreme Judicial Court For  
 the Commonwealth of Massachusetts,  
 1412 Courthouse, Boston, MA 02108  
 (617-557-1020), Docket No. FAR-  
 13410, CASE NAME: Commonwealth  
 Vs. Chad Nathan Barrows,

(2) Further Appellate Review.

(3) NONE.

(4) NO.

(5) DENIED FURTHER APPELLATE REVIEW.

(6) June 5, 2003.

(d) YES.

(e) NONE.

12. (a) (b) (d) (e) (f) (i) (j)

A. Ground one: (j) Denial of right of appeal.

(1) On 2-16-99 the Lynn District Court, 580 Essex St., Lynn, MA 01901, Docket No. 9913RO 0169 (NOW SEALED RECORD), unlawfully ordered no contact with lawful spouse, ex parte.

(2) On 3-11-99 a warrant issued in Salem District Court (SDC), alleging the defendant called his wife three times and said he loves her, in violation of the above restraining order on 3 counts from one ongoing incident. (Docket No. 9936CR758).

(3) On 3-19-99 the Court found the Pro Se defendant (Stand-By Counsel Appointed) guilty on all counts and committed Forthwith for 30 days - <sup>30 days - 30 li</sup> <sub>15 scheduled</sub>

(4) On 3-31-99 the Lynn District Court (LDC) issued a warrant, alleging the defendant made hang up calls from the gaol, in

- 11.(c) (1) Commonwealth of Massachusetts,  
Commission Against Discrimination,  
One Ashburton Place, Boston, MA 02108,  
Docket No. 01140281,  
(2) Civil action For executive branch  
investigation.  
(3) Disability Hate Crimes by  
the Committee of Public Counsel Services  
assigned to Docket No. 9936CR258,  
(4) No.  
(5) "The Commission has concluded that a  
Formal investigation of the complaint  
would not serve the public interest,"  
Beverly Ward, Acting General Counsel.  
(6) February 8, 2001.

Supplement

Violation of the above restraining order. (See Docket No. 9913CR2023.)

- (5) On 4-12-99 the defendant, then in custody, was arraigned on Docket No. 9913CR2023 with Attorney Adam Buckley (Former Sheriff's Dept.) temporarily appointed for arraignment as the duty attorney assigned by Essex County Bar Advocates, Inc. Director David Hallinan (Father In-law of Sheriff's Deputy Superintendent, William Center) for this court. The defendant's bail posted by spouse on Docket No. 9913CR2259 was revoked for 60 days and the defendant allegedly assaulted a court officer chained and shackled in a row. (Docket No. 9913CR2273-open)
- (6) 60 days thereafter, the defendant's bail was raised to \$101,750.00 cash, for related complaints from mother-in-law, and not released until July, 2001.
- (7) On 9-17-99 the defendant was served with Notice of Probation Surrender on Docket No. 9936CR758 for Complaint Nos. 9913CR2023 (and-2273) and Attorney Heather Ramsey was appointed for defendant.
- (8) On 5-3-99 SDC had issued warrant while defendant was in custody for above.
- (9) On 9-17-99 Judge Robert A. Cornetta

dismissed Heather Ramsey and ordered Attorney Brian Gillis to appear as stand-by counsel without a "waiver of counsel"; a motion from Ramsey for a hearing with no change in circumstances.

(10) On March 30, 1999, Stand-By Counsel (Lloyd Walmsley) wrote to the defendant advising post-conviction relief for disabled indigents and citing a case in the Lawyer's Weekly, (Now lost)

(11) On September 22, 1997 the Committee For Public Counsel Services (CPCS) dictated to the Justices of the Commonwealth of Massachusetts Supreme Judicial Court, Appeals Courts, Superior Courts, and District Courts, "In the unusual circumstances where the judge has decided that counsel should be assigned after the judge has reviewed the merits of the matter, CPCS requests that the judge endorse the motion for assignment of counsel with language to the effect of: HAVING  
Considered THE MATTER ON THE MERITS,  
THE MOTION FOR APPOINTMENT OF  
COUNSEL IS ALLOWED. REFER TO  
CPCS FOR ASSIGNMENT OF COUNSEL  
AND NOT FOR SCREENING. Absent

Such language or similar indication that the judge has made a substantive determination that assignment of counsel is warranted, CPCS will assign the matter to its screening panel." (Chief Counsel William Leahy.) Now when Judges routinely endorse the standard "Motion To Assign Counsel" for CPCS, without the above language, when the Judge is in fact intending counsel be appointed, as a "screening panel" is not their consideration, CPCS takes the opportunity to deprive indigent and disabled prisoners the equal protection of withdrawing their guilty plea.

- (11) On 9-2-99 "Judge CPCS," Assignment Number C2622453-1, assigned Attorney Eleanor Hertzberg, BBO# 558480, P.O. Box 654, Acton, MA 01720, (978) 266-3283, For "Post-Trial Criminal Case Purpose of Assignment: Enhanced Screening" to Docket No. 9936CR258.
- (12) On 10-24-00 (My birthday) Eleanor Hertzberg concluded to CPCS, "...I will not take



his case, ... For everybody's sake, I hope this is the end of this case, although I have an awful feeling he will someday learn about the BBO and this will come back at half the Massachusetts Bar." Memo attached:

"To: Don Bronstein. From: Ellie Hertzberg,  
Re: Chad Bartos, The VOP hearing showed that Mr. Bartos clearly did not understand what was happening, He clearly suffers from mental disease. In addition, the transcript suggests the court and probation officers also thought there might have been competency issues. There is a discussion in the transcript regarding whether or not Mr. Bartos had seen the court clinician. The Judge was told he had not. (Judge didn't want Pro Se,

(13) On 8-11-00, "Judge CPCS", "Assignment Number C2624179-5," assigned John J. Courtney For Direct Appeal on Docket No. 9936CR758, instead of Attorney Hertzberg who had been actively screening said case since 9-2-99.

(14) On 10-26-99 the SDC (Wexler, J.)

began a probation violation hearing according to Cornetta's, J. order to proceed Pro Se. Stand-by Counsel had not met with the defendant to prepare and withheld discovery materials prior to hearing. The defendant was only armed with a case law provided by fellow inmates that upheld, "disruption of the proceedings by a defendant is a constructive waiver of self-representation." The defendant proceeded to disrupt and mock the court with the case law. Wexler, J. ordered Gillis to represent me but would not allow a continuance to prepare (Commonwealth v. Faulkner, citations omitted).

(13) On 10-27-99 the defendant was found in violation of a probation term he never was released for on Docket No. 9936CR258.

(14) On 3-24-00 CPCS Director of Supervision & Evaluation Nancy T. Bennet, Esq., duly notified the defendant that Brian Gillis told her on 2-18-00 he was filing a claim of appeal on my behalf.

(15.) On 11-1-2000 John S. Courtney Filed Defendant's MOTION TO ENLARGE TIME FOR FILING NOTICE OF NOTICE (OF) APPEAL PURSUANT TO H.R.A.P. 14(b) with the Appeals Court, Docket No. 01-P-1066.

(16.) Courtney was given specific instructions to: 1) only communicate with the defendant in writing, and 2) Not to file anything without defendant's written approval.

(17.) Courtney Filed BRIEF AND APPENDIX FOR THE DEFENDANT ON APPEAL FROM THE DISTRICT COURT DEPARTMENT OF THE TRIAL COURT on Docket No. 01-P-1066 (Appeals Court) without the defendant's knowledge or true grounds for appeal.  
(Com. v Faulkner, Pro Se Order of Court, unlawful plea, unlawful arrest, unlawful imprisonment, unlawful restraining order (NOW SEALED TO PUBLIC),

Unlawful confession, malicious prosecution).

(18.) On 10-27-99 Wexler, J. Found no probable cause for Complaint on Docket No. 9913CR2023. Apparently the Lynn Police Dept. reported there was a phone number on the "caller ID box" with the same exchange as the Essex County Sheriff's Dept., 20 Manning Rd., Middleton, MA 01949. Complaint No. 9913CR2023 being the motive for offenses on Complaint No. 9913CR2273-OPEN. (The defendant had initiated investigation by Commission.)

(19.) On 6-27-00 Chief Justice Joseph Dwyer endorsed NOTICE OF ASSIGNMENT OF COUNSEL, ASSIGNMENT No. C2879027-4, For Lynn District Court Docket No. 9913RO169 (Restraining order), specifying "Purpose of Assignment: Other; Attorney to be named by CPCS For Appeals Court/STC/Murder Cases/Rule 30 Motions/SDP."

//

(20) On 8-11-00 CPCS erroneously assigns counsel to "9913CR0169".

(21) On 9-15-00 CPCS (Denise Simonini, Non-counsel) assigned Docket No. 9913RO0169 to Courtney For screening, erroneously ignoring all "boxes" checked by Dever, J. and relying solely on box: "Other", checked under "POST-TRIAL CRIMINAL CASES ONLY/PURPOSE OF ASSIGNMENT", to mean not an appointment of Counsel. However, the above case is not CRIMINAL and Judge Dever checked the appropriate box further down for a civil appeal. (See (11) above.)

(22) Courtney never Filed Notice of Appearance on Docket No. 9913RO0169. Had the order been overturned, not vacated, there would have been no basis for Docket No. 9936CR758 and related cases. Transcripts reveal that basis for RESTRAINING ORDER was wife's representations for mother only. The defendant has never been charged criminally with abuse defined by M.G.L.A. c. 209A.

(23) On 12-5-02 Courtney Appeared before the Massachusetts Appeals Court as ordered, and providing the court with my letter of 11-18-02 requesting that Courtney withdraw, The Appeals Court Ordered Courtney to proceed with oral argument, which Courtney did;

(24) On 8-12-03 Courtney Finally provided the defendant with Discovery to Docket No. 9936 CR 258 per order CPCS July 7, 2003 requested by defendant.

(25) In December 2002 and April 2003 the U.S. District Court, NY. Ordered an EMERGENCY MEDICAL TRANSFER For acute Stabilization at Federal Medical Center Devens,

(26) On 10-22-03 the U.S. District Court, ME, ordered a competency evaluation on defendant still pending.

(27) The Commonwealth of Massachusetts, Dept. of Human Services determined

The defendant is fully disabled in 2001.

(23) The defendant is currently prescribed a MAJOR ANTI-DEPRESSANT and another ANTI-DEPRESSENT concurrently, provided by Dr. Corona at the Cumberland County Gaol where the defendant is suffering ongoing trauma (Sec 321F2d594@602).

(24) On 3-12-1999 during arraignment in the Salem District Court, duty Attorney Alyssa Rosenthal stated to the Assistant District Attorney, "He's Crazy", as I was effecting waiver of counsel. Alyssa Rosenthal also inspired me to appeal the restraining order, but at the time of her advice I was having suicidal ideations and could not interact. Motivation would have been the recommendation of a year commitment.

(25) On 3-19-1999 the probation department told the court I had not seen the court clinic.



- (26) In August 1998 I was diagnosed with depression by Dr. Samuel Henck of Family Medicine, Beverly, MA and advised to seek psychotherapy. In September 1998 I met my wife to be and started an Economics Major at Salem State, living and working alone.
- (27) In December 1998 I was diagnosed with an anxiety disorder and prescribed an anxiolytic tranquilizer.
- (28) In January 1999 my health insurance was canceled from my previous employer without prior notice.
- (29) In February 1999 my wife moved home and had to vacate a restraining order against her mother and was coerced into one against me. (See 371 F2d 594 @ 602).
- (30) The defendant is in fear of the psychological damage inflicted upon indigents by the Commonwealth of Massachusetts and the inevitable threats to public safety. (Kerry is the antichrist.)

B. Ground Two: (a) See above.

C. Ground Three: (b) See above. The



defendant was arrested, in violation of M.G.L.A. c. 218 §35A, c. 209A §1, 419 Mass. 269, and 44 Mass. App. Ct. 23 by "Officers of the Court" on Docket No. 9936CR758. The defendant was entitled to an initial "clerk's hearing" and/or Forms.

D. Ground Four: (c) The defendant suffered routine cavity searches by the Essex County Sheriff's Dept. when returned to the Gaol by the Court.

E. Ground Five: (d) See above.

F. Ground Six: (e) The defendant's cell was routinely searched and legal mail was opened and scattered outside of the defendant's presence by "correctional officers" who mocked the defendant's notes and innocence.

G. Ground Seven: (f) The prosecution never requested a competency evaluation for the defendant appearing Pro Se.

H. Ground Eight: (ii) It is fairly evident the Commonwealth of Massachusetts

is controlled by lawyer racketeers  
unchecked by the Board of Bar Overseers  
of the Supreme Judicial Court, 25  
Federal St., Boston, MA 02108.

13. Appointed Counsel dictated defense  
while the defendant was incapacitated.

14. No.

15. (a) Alyssa Rosenthal, Esq., % Essex County Bar  
Advocates, Inc., One Salem Green, Salem, MA  
01970 (ECBA).

(b) Lloyd Walmsley, Esq. (ECBA)

(c) Heather Ramsey, Esq. (ECBA)

(d) Brian Gillis, Esq. (ECBA)

(e) John J. Courtney, Esq., 90 Salem St.,  
Malden, MA 02148-5213.

(f) Eleanor Hertzberg, Esq., P.O. Box 654,  
Acton, MA 01720.

(g) Courtney (above).

16. No.

17. Yes. (a) Supreme Judicial Court, 1412  
Courthouse, Boston, MA 02108. (b) Lifetime  
Criminal Offender Record Information with  
Docket No. 9913R00169 and record of serving  
a year or more sentence for Federal  
Sentencing guidelines. (c) Yes.

Wherefore, petitioner requests that the Court grant petitioner relief to which he may be entitled in this proceeding.

I state under penalty of perjury that the foregoing is true and correct.

Executed On: January 28, 2003.

Chad Nathan Barrows, Kecoec  
CHAD NATHAN BARROWS  
SSN 004-72-6467  
203 Washington St.  
Salem, MA 01970-3607  
% Cumberland County  
50 County Way  
Portland, ME 04102-2256

CC / NOT ALLOWED BY CUMBERLAND  
COUNTY SHERIFF'S DEPT.  
(Lt. Panenka)

CERTIFICATE OF AUTHORIZED OFFICER  
OF INSTITUTION

Unrespondent.

Volume: I  
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## COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

SALEM DISTRICT COURT  
DOCKET NO. CR0758

\* \* \* \* \*

COMMONWEALTH OF MASSACHUSETTS,  
Plaintiff

vs.

CHAD BARTOS,  
Defendant

\* \* \* \* \*

DATE: March 19, 1999

LOCATION: Salem District Court  
65 Washington Street  
Salem, MA 01970

G&M COURT REPORTERS, LTD.  
717 Atlantic Avenue, Suite 1D  
Boston, Massachusetts  
Telephone (617) 338-0030

A P P E A R A N C E S

ASSISTANT DISTRICT ATTORNEY  
On behalf of the Commonwealth of Massachusetts

CHAD BARTOS, Pro Se

ATTORNEY WARMSLEY (phonetic), standby counsel

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
CATHERINE BARTOS				
(By Mr. Ryan)	11			

P R O C E E D I N G S

THE CLERK: Mr. Ryan, are you ready on your violation?

MR. RYAN: Yes, I am.

THE CLERK: Okay. Mr. Bartos?

MR. RYAN: I have a victim here, Your Honor, and we're going forward today (inaudible).

THE COURT: Is this this gentleman here?

MR. BARTOS: (inaudible)

THE CLERK: Your Honor, I did speak to Mr. Warmsley regarding --

THE COURT: Standby counsel.

THE CLERK: -- standby counsel, yes, Your Honor.

THE COURT: I thought about this over lunch, okay? I don't want you to go forward without a lawyer at least to give you some advice. If you elect to represent yourself, that's fine, but I want Attorney Warmsley to stand by, because you're facing two and a half years in the house of correction on two of the matters and two and a half years on two of the other matters. And by

5

1 statute, since one occurred before the other, they  
2 would be -- on and after could be requested, which  
3 means that you could do more than five years.

4 So I would prefer if you didn't  
5 represent yourself, but since you want to, I'm  
6 going to have Attorney Warmsley as standby  
7 counsel. So if you have any questions, he can  
8 advise you, he can whisper to you and advise you  
9 what to say, what not to say and perhaps what  
10 questions to ask and what questions not to ask.  
11 Okay?

12 MR. BARTOS: Um-hum.

13 THE COURT: Okay.

14 MR. WARMSLEY: As a preliminary matter,  
15 Judge, when I talked to Mr. Bartos earlier in the  
16 cell area, he was under the impression that the  
17 2:00 hearing today was merely a mediation matter  
18 at which his wife would be speaking to a mediator.  
19 There was no mention at all of any violation of  
20 probation hearing --

21 THE COURT: All right.

22 MR. WARMSLEY: -- especially a final  
23 hearing, and I have a question as to whether Mr.  
24 Bartos truly understands that this is a violation



1 of probation hearing and a final hearing.

2 THE COURT: Okay, which is what my  
3 concern was also.

4 MR. WARMSLEY: Yes.

5 THE COURT: Which is why I didn't want  
6 him to represent himself. And it's a little  
7 unclear to me, when he was here last time, why he  
8 didn't have counsel. I know you said you'd  
9 represent yourself, but --

10 MR. BARTOS: I understand.

11 THE COURT: -- where you're facing  
12 sentencing --

13 MR. RYAN: If you like, Mr. Carlton was  
14 here when he was brought in.

15 THE COURT: Okay.

16 MR. CARLTON: I was the probation  
17 officer that was in charge of that hearing, Your  
18 Honor.

19 THE COURT: Okay.

20 MR. CARLTON: Again, David Carlton.

21 THE COURT: Right.

22 MR. CARLTON: Mr. Bartos did not want  
23 to have an attorney. He strenuously argued not to  
24 be appointed an attorney. He also strenuously

1 argued to be allowed to plead guilty that day, the  
2 judge did not allow that, gave us an opportunity  
3 to contact the witnesses who are here today, and  
4 that's why it was continued.

5 THE COURT: Okay. And do you  
6 understand all this, Mr. Bartos?

7 MR. BARTOS: I fully understand, and I  
8 tried to explain that to Attorney Warmsley down in  
9 the cell area, but since he was not appointed, he  
10 said that he would try to get me to appoint him  
11 first before he heard anything from me.

12 THE COURT: Okay, and let me ask you  
13 this: Do you want me to appoint Attorney Warmsley  
14 and give him an opportunity to speak to you and  
15 resolve this matter on another date, or do you  
16 want to go forward today?

17 MR. BARTOS: I want to go forward  
18 today.

19 THE COURT: Okay.

20 THE CLERK: Okay, Mr. Ryan, are you --  
21 if you would raise your right hand, please take an  
22 oath, sir?

23 MR. RYAN: Ma'am? Miss Bartos?

24 THE CLERK: Mr. Ryan, if you would

1 raise your right hand, please take an oath.

2 (Witness sworn.)

3 THE CLERK: Thank you. Mr. Bartos,

4 raise your right hand, please take an oath.

5 (Witness sworn.)

6 THE CLERK: Thank you. And ma'am, if

7 you'd raise your right hand, please?

8 (Witness sworn.)

9 MR. RYAN: Yes, Your Honor. My first

10 witness, Your Honor, is Cynthia Squires-Bartos.

11 MS. BARTOS: Catherine.

12 MR. RYAN: (Catherine Squires-Bartos.

13 THE COURT: Okay. And this was a

14 violation of probation notice that was given?

15 MR. RYAN: Yes, Your Honor. This was a

16 violation of probation. Mr. Bartos was placed on

17 probation on . . . he was placed on probation on

18 3/9 of 99, was given a continued without a finding

19 until 3/9/2000, Your Honor.

20 THE COURT: Thank you. I'm just going

21 to show this -- counsel, this is a form that it

22 appears that Mr. Bartos signed regarding his

23 probationary terms?

24 MR. WARMSLEY: (inaudible)

1 THE COURT: Okay.

2 MR. RYAN: Your Honor, as a matter of  
3 record, Ms. Catherine -- Miss Bartos --

4 MR. WARMSLEY: Judge, as a preliminary  
5 matter, Mr. Bartos wants to inquire as to whether  
6 his wife is aware that she has a right not to  
7 testify against him, citing the marital privilege.

8 THE COURT: Okay. Have you been  
9 advised --

10 MS. BARTOS: Yes, I have.

11 THE COURT: -- Miss Bartos, regarding  
12 your marital privilege, which means that under  
13 Massachusetts statute, you do not need or are in  
14 any way obligated and can refuse to testify  
15 against your husband?

16 MS. BARTOS: Um-hum.

17 THE COURT: You've been advised of  
18 that?

19 MS. BARTOS: I know.

20 THE COURT: Okay. And you wish to  
21 testify and waive your marital privilege?

22 MS. BARTOS: No, I'm not going to --  
23 can I just nod?

24 THE COURT: Yes?

1 MS. BARTOS: Yeah.

2 THE COURT: Okay. So you can waive

3 your -- you don't wish to waive your marital

4 privilege, you wish to invoke it, which means you

5 wish not to testify?

6 MS. BARTOS: I'm not sure I'm

7 understanding what you mean.

8 THE COURT: Okay.

9 MS. BARTOS: Does that -- well --

10 THE COURT: Because you're married to

11 him, you have a right not to testify --

12 MS. BARTOS: Right, well, I already --

13 does that -- you mean right now? I mean, all the

14 other times that I --

15 THE COURT: I mean right now.

16 MS. BARTOS: All right, yeah, well, I

17 know that.

18 THE COURT: Okay. And do you wish to

19 testify or do you wish not to testify?

20 MS. BARTOS: No, I will, I will.

21 THE COURT: You want to testify?

22 MS. BARTOS: Um-hum.

23 THE COURT: So you wish to waive your

24 marital privilege and testify against your

1 husband?

2 MS. BARTOS: (No verbal response)

3 THE COURT: Yes?

4 MS. BARTOS: Yes.

5 THE COURT: Okay.

6 MR. RYAN: Yes, Your Honor.

7

8 DIRECT EXAMINATION

9

10 BY MR. RYAN:

11

12 Q Miss Bartos, did you have a 209 -- a restraining  
13 order taken out against Mr. Bartos?

14 A Yes.

15 Q And do you remember what date you had that taken  
16 out?

17 A February 16th.

18 Q Of this --

19 A This year.

20 MR. RYAN: Okay. Your Honor, as  
21 evidence, February 16th --

22 THE COURT: Okay.

23 MR. RYAN: -- 209A taken out by --  
24 excuse me --

1 THE COURT: Just show it to counsel,  
2 please.

3 MR. WARMSLEY: Judge, Mr. Bartos has an  
4 objection with respect to the admissibility of the  
5 restraining order.

6 THE COURT: Okay. And what is that  
7 objection?

8 MR. BARTOS: On the record, it will  
9 show when, during the hearing of the restraining  
10 order in front of Judge Dever, that my wife said  
11 that she is not in any fear of me and that she was  
12 getting the restraining order for my mother-in-  
13 law. I've never committed any act of violence  
14 against her or hit her.

15 THE COURT: Okay.

16 MR. BARTOS: I wasn't informed until  
17 last Friday by Attorney Lisa Rosenthal, the fifth  
18 (D.A.) lawyer that I've had appointed, that I could  
19 appeal the restraining order and have the  
20 restraining order rescinded.

21 THE COURT: Okay, let me ask you a  
22 question. You were there during the hearing?

23 MR. BARTOS: Yes, I was.

24 THE COURT: Okay. And you received a

1 notice that the restraining order was issued?

2 MR. BARTOS: Yes.

3 THE COURT: Okay. And you were given a  
4 copy of that order?

5 MR. BARTOS: Yes, I was.

6 THE COURT: Okay. That's all they  
7 need. Sorry. Go ahead.

8 MR. RYAN: Thank you, Your Honor.

9 Q After that restraining order, Miss Bartos, did  
10 your husband contact you?

11 A Yes.

12 Q And which way?

13 A Phone.

14 Q And during this time, how many times did he  
15 contact you?

16 A Well, some nights he wouldn't call at all, just --  
17 I don't know. In one night? I don't know,  
18 about --

19 Q Well, during the period of, let's say --

20 A From then to now?

21 Q -- from 2/16 until 3/9.

22 A I don't know, probably about fifty times. I don't  
23 know.

24 Q Did he ever go to your work?



1 A Once.

2 Q Okay. And what happened at that time?

3 A He just knocked.

4 Q And what was your response?

5 A I called the police, I didn't --

6 Q And what happened?

7 A They took him to jail.

8 MR. RYAN: I have no further questions.

9 THE COURT: Okay. Do you have any  
10 questions?

11 MR. BARTOS: No.

12 THE COURT: No? Okay. Thank you. You  
13 can step down. Do you wish to be heard?

14 MR. BARTOS: Yes, Your Honor. As I've  
15 indicated to the court that the -- I believe that  
16 the restraining order isn't -- wasn't legally  
17 issued, okay, because there was no grounds for it,  
18 and I wasn't informed of my right to appeal it by  
19 Attorney O'Shea, who I asked about it and he said  
20 there was nothing I could do until March 12th,  
21 Lisa Rosenthal told me I could appeal it and have  
22 it rescinded by the appellate court and have these  
23 charges dropped. My only reason for violating the  
24 restraining order is not knowing what else to do.

1 THE COURT: I don't understand that  
2 part. What do you mean, you didn't know what else  
3 to do? The order said no contact. You were in  
4 court. Judge Dever told you no contact, correct?

5 MR. BARTOS: Right.

6 THE COURT: And you got a copy of this,  
7 right?

8 MR. BARTOS: That's correct.

9 THE COURT: And you can read the second  
10 paragraph which says no contact.

11 MR. BARTOS: Right.

12 THE COURT: Either in person, by phone,  
13 in writing or otherwise. Correct?

14 MR. BARTOS: Right, that's correct.

15 THE COURT: Okay. And --

16 MR. BARTOS: I didn't know what else to  
17 do as to rectify.

18 THE COURT: Oh, I understand that, but  
19 why did you continue to contact her, fifty phone  
20 calls and going to her work? That's at least  
21 fifty-one violations.

22 MR. BARTOS: Right.

23 THE COURT: Didn't you understand that  
24 the order was the order until you appeal it or

1 change it or some judge changes it?

2 ~~MR. BARTOS:~~ MR. BARTOS: No, I didn't, because I  
3 didn't know I could appeal it.

4 THE COURT: Okay. Aside from that fact  
5 whether you appeal or not, you knew it's a court  
6 order.

7 MR. BARTOS: Right.

8 THE COURT: And you were advised that a  
9 violation of that is a criminal act.

10 MR. BARTOS: Right, no, I was aware  
11 of -- I'm aware of that.

12 THE COURT: Okay. So you violated this  
13 restraining order approximately fifty-one times,  
14 and you didn't see any problem with that?

15 MR. BARTOS: I saw a problem with it --

16 THE COURT: Okay.

17 MR. BARTOS: -- but I didn't know what  
18 else to do to, you know --

19 THE COURT: Stop violating it, how  
20 about that?

21 MR. BARTOS: No, but that's not why I  
22 was violating it.

23 THE COURT: Why were you violating it?

24 MR. BARTOS: I was trying to save my

1 marriage, which was more important than . . .

2 THE COURT: Than going to jail.

3 MR. BARTOS: Right.

4 THE COURT: Okay.

5 MR. BARTOS: My wife -- me and my wife  
6 have an understanding as to March 11th, after the  
7 last violation, that I would not contact her, that  
8 she doesn't want me to go to jail, she wants me to  
9 straighten out my life and wait for her to contact  
10 me. Okay? She informed the mediator, whoever  
11 that may be, of that, and when she told him that  
12 she wouldn't be here today, I -- and from what I  
13 understand, the mediator was pretty upset about  
14 that, but I made sure that she was here today so  
15 she could confirm everything I say --

16 THE COURT: Did she have a conversation  
17 with you?

18 MR. RYAN: No, Your Honor.

19 THE COURT: Okay.

20 MR. RYAN: No, Your Honor.

21 THE COURT: I don't know who the  
22 mediator is. Is there a mediator in Salem  
23 District Court?

24 MR. BARTOS: Well, whoever spoke --

1 THE CLERK: No, no, ma'am.

2 THE COURT: Okay.

3 MR. CARLTON: Your Honor, the only -- I  
4 did speak with the victim, I interviewed her.

5 THE COURT: Okay.

6 MR. CARLTON: I'm not a mediator, I'm a  
7 probation officer.

8 THE COURT: Right.

9 MR. CARLTON: And she's quite clear as  
10 to who I am.

11 THE COURT: Okay. And did she indicate  
12 to you that they had an agreement that she didn't  
13 want him to go to jail?

14 MR. CARLTON: No, Your Honor.

15 THE COURT: Okay. Okay. Anything else  
16 you'd like to tell me?

17 MR. BARTOS: I just seen my wife mouth  
18 the words that, "I did tell him."

19 THE COURT: Where is she?

20 MR. BARTOS: Over there.

21 THE COURT: Stand up, ma'am. Did you  
22 tell the probation officer that you didn't want  
23 him to go to jail?

24 MS. BARTOS: I told him I don't think

1 he'd benefit from jail.

2 THE COURT: Okay.

3 MS. BARTOS: I said I think he needs  
4 psychiatric help, I think he needs a psychiatrist.  
5 I said I don't think he needs jail, I don't think  
6 it will help him. I don't think it would help me  
7 when he got out, either; I think if he got out, he  
8 would still try to talk to me.

9 THE CLERK: Judge, (inaudible) the  
10 microphone so it's all picked up?

11 THE COURT: Yeah.

12 MS. BARTOS: (inaudible) psychiatrist,  
13 a court order --

14 THE CLERK: Excuse me, ma'am, could you  
15 just go to the microphone? I don't pick up back  
16 there, and it has to be all on the record.

17 MS. BARTOS: I told him, when I talked  
18 to him, if he had, like, a court order to see a  
19 psychiatrist, if he could, like, be free to choose  
20 whoever he wanted to see, but a court order he had  
21 to go, then I think that's what he needs. I think  
22 if he went to jail, I think he would just come  
23 back and he'd try to talk to me again. I think he  
24 needs help, that's what I think he needs.

1 I don't think he'd benefit from jail.  
2 I did tell him that when I talked to him on the  
3 phone. I don't think he'd benefit from jail.  
4 He's never -- I will have to say, he did hurt my  
5 family a lot and he did hurt me a lot and he did a  
6 lot of awful things to me, and that's true. I  
7 don't think he deserves five years in jail. He  
8 did never physically hurt me.

9 I don't want any contact with him, I  
10 don't want to see him again, but five years is a  
11 little -- a little steep, I think. I want him to  
12 just leave me alone. That's all I ever wanted. I  
13 don't want -- I'm not, you know, over here to put  
14 him in jail forever, you know. I just want him to  
15 leave me alone. I think he needs professional  
16 help. That's what I said from the beginning,  
17 that's what I think he needs, really.

18 THE COURT: Okay, thank you.

19 MR. CARLTON: Excuse me --

20 MR. BARTOS: Your Honor --

21 MR. CARLTON: (inaudible) whether they  
22 had an agreement.

23 THE COURT: Okay.

24 MR. CARLTON: (inaudible) Mr. Bartos

1 had not contacted her, but this is what she asked  
2 for.

3 THE COURT: Have we already had this  
4 guy evaluated?

5 MR. CARLTON: Yes -- oh, evaluated, I'm  
6 not sure.

7 THE COURT: Okay.

8 MR. BARTOS: Can I proceed?

9 THE COURT: Yes.

10 MR. BARTOS: The other concern I have  
11 is that when I entered my guilty plea, my mother  
12 brought this to my attention, Judge Griffin told  
13 the Probation no probation, so I don't even  
14 understand how I got on probation to violate  
15 probation.

16 THE COURT: You can -- the case is  
17 continued with no finding until 3/9/200, which  
18 means that when you signed that little contract,  
19 one of the terms was that you don't get arrested  
20 again. So you're in violation because you were  
21 arrested again for a violation.

22 MR. BARTOS: Okay.

23 THE COURT: Okay? So that's kind of  
24 how it happens.



1 MR. BARTOS: Right, but I mean --

2 THE COURT: All right?

3 MR. BARTOS: -- Judge Griffin did say  
4 on the record that no probation.

5 THE COURT: Well, that means that you  
6 don't have to report to the probation officer  
7 every week, but there is a term, through the year  
8 2000, that you are to remain not arrested, in no  
9 violation of any laws or etcetera, etcetera. And  
10 then what happens is, two days after you receive  
11 this sentence, you're in violation, so that's why  
12 you're here.

13 MR. BARTOS: Right.

14 THE COURT: And that's why they're  
15 going forward. And part of the continuation  
16 without a finding was that you were not to commit  
17 any new crimes, and based on the fact that they're  
18 alleging that you did commit the crimes and your  
19 wife is testifying that you contacted her in  
20 violation of the restraining order, then that's a  
21 violation of the continuance without a finding, at  
22 which point they can request that that be vacated  
23 and that you receive a guilty two and a half years  
24 in the house of correction.

1 MR. BARTOS: Okay.

2 THE COURT: Okay? So probation, the  
3 term probation means that you didn't have to  
4 report here weekly to a probation officer.

5 MR. BARTOS: Right.

6 THE COURT: Okay. But it still means  
7 that the term is open and the court has  
8 jurisdiction over you.

9 MR. BARTOS: Okay, now I understand.

10 THE COURT: Okay. Anything else you'd  
11 like to say?

12 MR. BARTOS: Yeah. I did hurt my wife  
13 a lot emotionally and more so than I hurt myself,  
14 and I think I basically, you know -- I mean, I got  
15 the help I need, I know that what I need to do,  
16 what I need to do is the right thing now.

17 THE COURT: Which is what?

18 MR. BARTOS: Which is basically what I  
19 know is right.

20 THE COURT: Which is what?

21 MR. BARTOS: It could be any number of  
22 things.

23 THE COURT: Okay. You tell me what you  
24 think is right. You understand this woman wants

1 to have no contact with you?

2 MR. BARTOS: Yeah, I do.

3 THE COURT: And there is no saving the  
4 marriage? *(George W. Bush)*

5 MR. BARTOS: Right.

6 THE COURT: And there's no way that you  
7 could remedy this situation?

8 MR. BARTOS: Right.

9 THE COURT: Okay. You also understand  
10 that she has requested that you get some kind of  
11 counseling --

12 MR. BARTOS: Right.

13 THE COURT: -- to handle and resolve  
14 the situation?

15 MR. BARTOS: Right.

16 THE COURT: Okay. And do you think  
17 that's the right thing to do?

18 MR. BARTOS: Yes.

19 THE COURT: Okay.

20 MR. BARTOS: I'll do whatever makes my  
21 wife happy.

22 THE COURT: No.

23 MR. BARTOS: Well, as now, she's my  
24 wife. Maybe after she gets a divorce, whatever,

1           you know . . .

2                   THE COURT: And do you understand about  
3           the order?

4                   MR. BARTOS: Yes, I do.

5                   THE COURT: Okay. And you understand  
6           there's to be no contact.

7                   MR. BARTOS: Yes.

8                   THE COURT: And you understand that you  
9           can't see her anymore.

10                  MR. BARTOS: Right.

11                  THE COURT: And that you can't go to  
12           her work and you can't call her.

13                  MR. BARTOS: Right.

14                  THE COURT: You can't speak to any of  
15           her friends or her family about her.

16                  MR. BARTOS: Right. I understand --

17                  THE COURT: You understand all that?

18                  MR. BARTOS: I understand fully.

19                  THE COURT: Okay. And if I ordered you  
20           into treatment, would you go?

21                  MR. BARTOS: What kind of treatment? I  
22           don't understand what kind of treatment I need.

23                  THE COURT: Psychiatric treatment.

24                  MR. BARTOS: If you ordered it, I

1 would, but I don't see the need for it. I mean,  
2 I'm a full-time student at Salem State, I have my  
3 own apartment, a dog to take care of, a roommate  
4 to split the rent with.

5 THE COURT: Okay.

6 MR. BARTOS: I mean, I have a lot going  
7 for me. Right now I'm temporarily employed by  
8 Long's Corporate Gifts --

9 THE COURT: Okay.

10 MR. BARTOS: -- shipping and receiving.  
11 They want to hire me full-time when they move to  
12 Burlington as of May 1st.

13 THE COURT: Okay.

14 MR. BARTOS: So I mean, I want to build  
15 my life up --

16 THE COURT: Right.

17 MR. BARTOS: -- rather than, you know,  
18 tear somebody else down. I mean, I realize that a  
19 lot of the things I did in the past are crooked,  
20 and basically I want to just --

21 THE COURT: Fix it.

22 MR. BARTOS: Not so much fix it, just  
23 go straight.

24 THE COURT: Okay. Anything else?

1 MR. BARTOS: I don't believe so, other  
2 than, you know, I apologize to my wife for all the  
3 hardship I've caused her and for taking up the  
4 court's time with this.

5 THE COURT: Okay.

6 MR. BARTOS: But I do think I've got  
7 the help that I need, I understand what I need to  
8 do.

9 THE COURT: And is Probation making any  
10 recommendations? Is that -- is that all you'd  
11 like to say?

12 MR. BARTOS: Yeah.

13 THE COURT: Okay.

14 MR. RYAN: Our recommendation, Your  
15 Honor, he's not appropriate for probation, given  
16 that he's (inaudible) that he knows the difference  
17 between right and wrong. He's had the order, he's  
18 had the probation situation in front of him, and  
19 he just blatantly -- he's been on probation since  
20 he was a juvenile (inaudible) done what he wanted  
21 (inaudible) shows he's inappropriate for  
22 probation.

23 THE COURT: Okay.

24 MR. BARTOS: Your Honor?

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28

1 THE COURT: Yup?

2 MR. BARTOS: I'm not the same person  
3 that I was before. You know, I haven't been on  
4 probation, since my release last year, I haven't  
5 had any new arrests whatsoever, unless they were  
6 related to my wife. I've maintained my own place  
7 since April, and --

8 THE COURT: What about the Lynn  
9 matters?

10 MR. BARTOS: The Lynn matters are all  
11 related to my mother-in-law. All related to my  
12 mother-in-law. In fact, my wife (inaudible) I  
13 hadn't been charged with the B&E in the nighttime  
14 with intent to commit a felony, my wife told me we  
15 wouldn't have gotten -- we wouldn't have gotten  
16 married, so I mean, there's -- there is a lot of  
17 confusion there that needs to be worked out.

18 THE COURT: Okay. Do you want to try  
19 to resolve the pre-trial while we're here, or do  
20 you want to put that matter over? Is he being  
21 held on bail on the pre-trial?

22 MR. RYAN: Yes, he is, Your Honor,  
23 \$500.

24 A.D.A.: I believe so.

1 THE COURT: Pardon me?

2 THE CLERK: Yeah, he's on \$500 cash and  
3 without bail on the probation matter.

4 THE COURT: Okay.

5 A.D.A.: Your Honor, the Commonwealth  
6 would also be recommending committed time for Mr.  
7 Bartos, so perhaps it would be a situation that  
8 might benefit from a further date.

9 THE COURT: Okay.

10 MR. BARTOS: I'd just as soon resolve  
11 it today. That way I don't have to wait for  
12 anything.

13 THE COURT: Okay.

14 MR. BARTOS: I can just get on with my  
15 life and put this behind me.

16 THE COURT: Okay. You understand that  
17 they'd be looking for you to admit that you  
18 violated the probation -- I mean, excuse me,  
19 violated the restraining order?

20 MR. BARTOS: Right.

21 THE COURT: Okay.

22 MR. BARTOS: I realize that. I  
23 just . . .

24 THE COURT: Okay. And we need you to



1 fill out a green sheet. Could you explain to him  
2 about the green sheet?

3 MR. WARMSLEY: Yes.

4 THE COURT: Okay. And Mr. Warmsley,  
5 just make a recommendation regarding sentencing  
6 for -- and the Commonwealth will make their  
7 recommendation, which is going to be committed  
8 time.

9 MR. WARMSLEY: I will, yes.

10 THE COURT: Okay?

11 MR. WARMSLEY: Thank you, Your Honor.

12 (Brief pause.)

13 MR. WARMSLEY: He should also be  
14 signing a waiver of counsel, I believe, correct?

15 MR. BARTOS: I already did.

16 THE COURT: He already did, I  
17 understand. Is that correct?

18 MR. WARMSLEY: On these new charges?

19 MR. BARTOS: I did it.

20 THE COURT: I think the clerk told me  
21 that he did.

22 THE CLERK: I do have a waiver of  
23 counsel, Your Honor, on this.

24 THE COURT: Okay.

1 THE CLERK: And I have (inaudible).

2 Yes, Your Honor.

3 THE COURT: Okay.

4 (Brief pause.)

5 THE COURT: Do you want to call the  
6 other guy?

7 THE CLERK: Excuse me, Your Honor?

8 THE COURT: Do you want to call the  
9 other guy and see if we can just send him to  
10 Bridgewater?

11 THE CLERK: Oh, yeah, sure. Okay. Mr.  
12 Warmesley, we'll give you a few minutes for that.

13 (The Court addresses an  
14 unrelated matter.)

15 THE CLERK: Mr. Bartos?

16 (Off the record.)

17 A.D.A.: -- Officer Coajeck (phonetic)  
18 would testify that he was dispatched to Andover  
19 (inaudible) restraining order violation. When he  
20 arrived, he approached the victim, a Catherine  
21 Squires, who indicated that the defendant had  
22 called her on the telephone approximately fifteen  
23 times, in violation of the no-contact provision of  
24 the restraining order. She indicated that she had

1 recorded the calls.

2 There was no phone number that was  
3 displayed showing where it was coming from.  
4 However, on three different calls, Chad had left a  
5 message. The officer did listen to those messages  
6 at the time, recognized his voice from a previous  
7 arrest that he had made the day before. And in  
8 all three calls, it indicates in the report that  
9 the defendant had left basically the same message,  
10 that he wanted to get back together with  
11 Catherine, he couldn't go on living without her,  
12 he wanted to speak with her.

13 All the calls that had come in that  
14 were on the machine totaled thirty, at which point  
15 the officer did call the defendant at home. He  
16 answered. After a brief conversation during which  
17 he was informed that he had again violated the  
18 restraining order and had to be charged, he didn't  
19 say -- and that he was not supposed to call  
20 anymore, he didn't say much in return. Those are  
21 essentially the facts.

22 THE COURT: Okay. Mr. Bartos, I know  
23 that you've only had a brief opportunity, but you  
24 wanted to resolve this case today. These rights

1 that are on the back of this green sheet, you've  
2 read these rights, correct?

3 MR. BARTOS: Yes.

4 THE COURT: Okay. Now I'm going to ask  
5 you a series of questions, and I don't have to  
6 accept your recommendation, I don't have to accept  
7 the Commonwealth's recommendation, and I could  
8 devise my own recommendation, and if you don't  
9 like that, you can withdraw your plea on the two  
10 new cases and schedule the matter over for another  
11 day. Okay?

12 MR. BARTOS: (No verbal response)

13 THE COURT: But on the violation of  
14 probation, there's no appeal from that. Okay?  
15 You can't withdraw your -- the disposition on  
16 that.

17 MR. BARTOS: Okay.

18 THE COURT: Okay? All right. State  
19 your name and age for the record, please.

20 MR. BARTOS: Chad Nathan Bartos, age  
21 22.

22 THE COURT: Okay. Have you had any  
23 drugs or alcohol in the last twenty-four hours?

24 MR. BARTOS: No, I have not.

1 THE COURT: Have you ever been treated  
2 for a mental illness that would cause you to be  
3 confused about what was happening here today?

4 MR. BARTOS: No. *H. Bartos*

5 THE COURT: Okay. Do you understand,  
6 sir, by admitting to the three charges of  
7 violation of a restraining order, that you're  
8 waiving your right to have a trial by a judge or a  
9 jury forever on those matters?

10 MR. BARTOS: Yes.

11 THE COURT: Do you understand, sir,  
12 that you're waiving your -- if you chose a jury  
13 trial, you and your attorney or you yourself could  
14 participate in the selection of the jurors and  
15 that they would have to find you guilty  
16 unanimously?

17 MR. BARTOS: Yes.

18 THE COURT: Do you understand, sir,  
19 that you're waiving your right to confront  
20 witnesses and present evidence on your own behalf?

21 MR. BARTOS: Yes.

22 THE COURT: Do you understand, sir,  
23 that you're waiving your right requiring the  
24 government to prove each and every element of

1           these crimes beyond a reasonable doubt?

2                   MR. BARTOS: Yes.

3           THE COURT: Do you understand, sir,  
4           you're waiving your right to remain silent,  
5           because you're admitting to these charges today?

6                   MR. BARTOS: Yes.

7           THE COURT: You've heard the facts of  
8           the Commonwealth which had to do with the phone  
9           calls, and you're admitting that you made those  
10          phone calls?

11                   MR. BARTOS: Yes.

12          THE COURT: And you violated the  
13          restraining order?

14                   MR. BARTOS: Yes.

15          THE COURT: Okay. Has anyone forced  
16          you to make this admission today, sir?

17                   MR. BARTOS: No.

18          THE COURT: You're doing so freely,  
19          willingly and voluntarily?

20                   MR. BARTOS: Yes.

21          THE COURT: Okay. Commonwealth, I'll  
22          hear you on disposition.

23                   A.D.A.: Your Honor, the Commonwealth  
24          is recommending straight committed time for Mr.

1           Bartos based on the fact that, as you've heard  
2           today from the Probation Department and the  
3           information that we have as well from the  
4           Probation Department, Mr. Bartos is not a  
5           candidate for probation.

6                     In addition, his history of this type  
7           of behavior, evidenced most currently by the most  
8           recent two arrests, indicate complete disregard  
9           for the rules of the court and specifically the  
10          restraining order. He's not appropriate for  
11          probation.

12                    He has a history on his record of cases  
13          of an assaultive nature, one of which I would  
14          point Your Honor's attention to is a superior  
15          court case which was partially not pressed, from  
16          my indication of the record --

17                    THE COURT: Right.

18                    A.D.A.: -- and that he did eventually  
19          serve time on. In addition, he has an extensive  
20          juvenile record. He was committed several times  
21          to D.Y.S. as a juvenile --

22                    MR. BARTOS: Objection.

23                    A.D.A.: -- and he also was committed  
24          on --

1 THE COURT: That's okay.

2 A.D.A.: -- cases that were an  
3 assaultive nature. Now, understandably,  
4 psychiatric care or counseling might be  
5 appropriate, but in this situation, the victim's  
6 safety is of utmost concern, and for those  
7 reasons, the Commonwealth is recommending  
8 committed time.

9 THE COURT: Okay. And does -- Mrs.  
10 Bartos, do you wish to say anything, since you are  
11 the victim in this case?

12 MS. BARTOS: Yes.

13 THE COURT: You can please come down to  
14 the microphone.

15 MS. BARTOS: Yeah. I just want to say,  
16 I've probably said it before, he never physically  
17 hurt me.

18 THE COURT: Right.

19 MS. BARTOS: I mean, all these calls  
20 and everything, I know, like I said before, he did  
21 bother my family, he did all these things. But I  
22 mean, if he's going to leave me alone, then I  
23 believe he's going to leave me alone. I mean, I  
24 want to -- I have the restraining order now.



1 THE COURT: Right.

2 MS. BARTOS: So I mean, I'd be  
3 agreeable, if I could keep the restraining order  
4 for my mother's sake, you know, just to keep  
5 everybody -- because I live with her.

6 THE COURT: Right.

7 MS. BARTOS: So if I could keep that to  
8 ease her, you know, and ease myself, what if I am  
9 wrong, but, you know, I'd be agreeable to just,  
10 you know, maybe give him some counseling,  
11 necessarily take him to jail -- you know what I  
12 mean? Because like I said, I don't -- he doesn't  
13 have a record for physically hurting anybody.

14 THE COURT: Right.

15 MS. BARTOS: He doesn't have a record  
16 for ever physically hurting anyone, and he's never  
17 tried to physically hurt me. So, you know, I  
18 don't want him to go to jail, I just -- I called  
19 the police because I didn't know what else to do.

20 THE COURT: Okay.

21 MS. BARTOS: I wanted him to leave me  
22 alone and it wasn't getting through to him, so I  
23 had no other choice.

24 THE COURT: Okay.

1 MS. BARTOS: I didn't want it to come  
2 to this, but I just wanted, for my mother's sake,  
3 because, you know, I just want to ease her fears,  
4 if I can keep the restraining order, I think this  
5 time I think he'll leave me alone. If I have an  
6 order, that's my safety guard. You know what I  
7 mean? So, you know, that's all I have to say.

8 THE COURT: Okay, thank you.

9 A.D.A.: Your Honor, just briefly, if I  
10 may.

11 THE COURT: Yup.

12 A.D.A.: The fact that he has no  
13 assaults or he hasn't . . .

14 THE COURT: Right.

15 A.D.A.: -- any physical violence,  
16 that's what the Commonwealth is trying to prevent  
17 from happening, and obviously the Commonwealth's  
18 argument would be, in terms of the restraining  
19 order, that that piece of paper has not been  
20 sufficient to stop this defendant in the past, and  
21 it certainly is not protection, when you're  
22 holding it out in front of you, from anything that  
23 might possibly happen, and that's the  
24 Commonwealth's concern in this instance.

1 THE COURT: Okay.

2 MR. BARTOS: Your Honor?

3 THE COURT: One second. I'll give you  
4 your shot. Probation, what are you looking for on  
5 the V.O.P.?

6 MR. RYAN: Your Honor, Probation is  
7 looking for seeing Mr. Bartos as his -- the  
8 preponderance has been met and he's been found in  
9 violation.

10 THE COURT: Um-hum.

11 MR. RYAN: Therefore, Probation would  
12 be asking two, two years.

13 THE COURT: Committed?

14 MR. RYAN: Yes.

15 THE COURT: Okay. Mr. Bartos?

16 MR. BARTOS: For one, I was never  
17 committed by the -- to the Department of Youth  
18 Services, any --

19 THE COURT: That's all right, I'm not  
20 taking any other juvenile into -- into --

21 MR. BARTOS: Okay. I just wanted it to  
22 be corrected on the record.

23 THE COURT: That's okay.

24 MR. BARTOS: And the other thing was

1 that, like I said before, when my wife went in to  
2 get the restraining order, she told the judge she  
3 wasn't in fear of me.

4 THE COURT: Right.

5 MR. BARTOS: And there was no grounds  
6 to get it, but because -- for whatever reason, it  
7 was issued.

8 THE COURT: Right.

9 MR. BARTOS: And that if I was to  
10 appeal it and have it rescinded and not bother --  
11 not bother with my wife any more and just -- then  
12 the charges could potentially be dropped.

13 THE COURT: Okay.

14 MR. BARTOS: Because as she said, I --  
15 she's not in any fear of me. That's what the  
16 restraining order protects, abuse. I've not  
17 abused her. My record doesn't indicate --

18 THE COURT: Well, thirty phone calls is  
19 abuse. *that's not a crime.*

20 MR. BARTOS: Well, yeah, well --

21 THE COURT: If you know what I mean.  
22 Okay?

23 MR. BARTOS: Yeah, but there's other  
24 provisions for that than a restraining order.

1 THE COURT: There's also a jail  
2 sentence for that.

3 MR. BARTOS: Right, annoying phone  
4 calls.

5 THE COURT: Right, okay.

6 MR. BARTOS: I realize that, but I'm --  
7 what I'm trying to do is try to be reasonable  
8 here.

9 THE COURT: Okay.

10 MR. BARTOS: To, you know --

11 THE COURT: And I'm trying to make it  
12 clear so that you will really understand that  
13 regardless of whether you thought the order was  
14 right or wrong --

15 MR. BARTOS: Right.

16 THE COURT: -- whether you appealed it  
17 or didn't appeal it, it was still an order.

18 MR. BARTOS: Right.

19 THE COURT: And you were still  
20 obligated to comply with the order. Right?

21 MR. BARTOS: That's correct, and that's  
22 why I'm here today --

23 THE COURT: Okay. And now it's still  
24 going to be in effect.

1 MR. BARTOS: Right. That's why I'm  
2 here today --

3 THE COURT: Do you understand that?

4 MR. BARTOS: -- is because I did what I  
5 wanted to do instead of what was right.

6 THE COURT: Exactly. *He's saying that*

7 MR. BARTOS: Right.

8 THE COURT: So you understand, okay,  
9 that the order is still in effect until 2000?

10 MR. BARTOS: Exactly, yeah.

11 THE COURT: Okay. And you understand  
12 that you cannot violate it.

13 MR. BARTOS: I understand everything  
14 completely.

15 THE COURT: Okay. Do you understand,  
16 really?

17 MR. BARTOS: Yes, I -- I --

18 THE COURT: Okay.

19 MR. BARTOS: I mean, I just did -- the  
20 problem here is, I did what I wanted.

21 THE COURT: Right.

22 MR. BARTOS: Without any regards to  
23 what was right or wrong. *6/7/04*

24 THE COURT: Right. Okay. I'm not

1 going to take your recommendation, which is seven  
2 days committed. And I'm not going to take the  
3 Commonwealth's recommendation, which is two years  
4 house of correction. And I'm not going to take  
5 the Probation's, which is two years house of  
6 correction.

7 I'm going to give you thirty days  
8 committed -- actually, I'm going to give you nine  
9 months house of correction, thirty days to serve,  
10 balance suspended on Count 1. Count 2, I'm going  
11 to give you guilty, one year probation, concurrent  
12 with the first. And count 2 (sic), I'm going to  
13 give you guilty, one year probation, concurrent  
14 with the first. On the violation of probation,  
15 I'm going to give you thirty days committed  
16 straight and terminate the probation.

17 Now, as terms of the conditions of your  
18 probation -- and this Probation Department doesn't  
19 want you on probation.

20 MR. BARTOS: Yes.

21 THE COURT: Okay? You may transfer the  
22 probation down to the Lynn District Court, where  
23 you'll be monitored. I want you evaluated by the  
24 court clinic, which means you're going to go and

1 talk to somebody.

2 MR. BARTOS: Right.

3 THE COURT: And depending on what they  
4 recommendate -- what their recommendation is for  
5 counseling, you are to go into and complete any  
6 counseling that they suggest.

7 If you don't go because you don't like  
8 it or because it's an order that you don't want to  
9 follow or for whatever reason you believe that  
10 it's not the right thing to do, that will be a  
11 violation of your probation and you will go back  
12 and either do the eight months on the first  
13 sentence or two and a half or two years on the  
14 second two sentences. Is that understood?

15 MR. BARTOS: Perfectly.

16 THE COURT: Okay. You can transfer his  
17 probation as soon as the matters in Lynn are  
18 complete down there, if you don't want to keep him  
19 here.

20 MR. RYAN: Yes, Your Honor.

21 THE COURT: Okay?

22 MR. RYAN: Thank you, Your Honor.

23 MR. BARTOS: Your Honor, one other  
24 concern.



1 THE COURT: Okay, let me just -- yes,  
2 go ahead.

3 MR. BARTOS: My wife bailed me out the  
4 \$750 on that B&E charge and violations in Lynn.

5 THE COURT: Yup.

6 MR. BARTOS: And I'm afraid that her  
7 money will be revoked because of these new  
8 arrests.

9 THE COURT: It won't be.

10 MR. BARTOS: Okay.

11 THE COURT: Okay? Let me -- when are  
12 you due back there? Have you got a lawyer?

13 MR. BARTOS: April 2nd. No, I  
14 represent myself.

15 THE COURT: Okay. Well, he's done  
16 seven days. Will he be out by the 2nd? No.

17 THE CLERK: Excuse me, Your Honor?

18 THE COURT: If he's done seven days and  
19 I gave him thirty, he won't be out by the 2nd,  
20 right?

21 THE CLERK: No, no, ma'am.

22 THE COURT: Okay. Can we get a -- how  
23 do we -- can we set a mitt. for him for them to  
24 send him to Lynn on the 5th?

1 THE CLERK: What's going on on the 5th  
2 in Lynn?

3 MR. BARTOS: On the 2nd.

4 THE CLERK: What's going on over there?

5 THE COURT: He has a case in Lynn on  
6 April 5th.

7 THE CLERK: Judge, they'd have to habe.  
8 him out of Lynn.

9 MR. BARTOS: But the date was changed.  
10 I did a motion to discharge counsel and they  
11 changed the date to April 2nd. Attorney  
12 Alexander --

13 THE CLERK: They'd have to habe. him --  
14 Attorney Warmley could do that, or whoever's  
15 representing him, through Lynn.

16 MR. BARTOS: I don't -- I represent  
17 myself.

18 THE COURT: He doesn't have -- that's  
19 the other problem, he doesn't have a lawyer in  
20 Lynn.

21 THE CLERK: Do you have a probation  
22 officer?

23 THE COURT: No.

24 MR. BARTOS: No, I'm not on probation.

1 THE CLERK: We don't have him here, and  
2 I don't know how to -- what avenue to get him  
3 there from our court. We can't issue a mittimus  
4 from here to get him to Lynn. /

5 THE COURT: Okay.

6 THE CLERK: You'd have to petition  
7 Lynn, write them and ask them to habe. you in for  
8 that date, if you don't have --

9 THE COURT: Yeah, well, only because I  
10 don't want the wife to lose her money. She put  
11 the bail on him.

12 THE CLERK: If he's in custody, she  
13 wouldn't lose the money.

14 THE COURT: ? Yeah, you know, if  
15 somebody's paying attention.

16 THE CLERK: Yes, Your Honor.

17 THE COURT: Right?

18 THE CLERK: It's not like Salem  
19 District Court, the magistrate up here --

20 MR. BARTOS: Well, she could lose the  
21 money because I got arrested?

22 THE COURT: No.

23 MR. BARTOS: Okay.

24 THE COURT: Okay? We won't let that

1 happen. So let me do this. Guilty.

2 MR. BARTOS: I could contact Attorney  
3 Alexander, who's on standby, to ensure that I'm --

4 THE COURT: Good idea. And have -- is  
5 it a her?

6 MR. BARTOS: Him.

7 THE COURT: Him habe. you in to Lynn.

8 MR. BARTOS: Okay.

9 THE COURT: He can have it sent from  
10 Lynn Court up to the jail.

11 MR. BARTOS: Okay.

12 THE COURT: Okay?

13 THE CLERK: I'm just waiting for the  
14 green slip. Mr. --

15 THE COURT: Yeah, I'm writing it quick.

16 THE CLERK: Yes, Your Honor,  
17 (inaudible) probation officer.

18 THE COURT: Because I need the  
19 defendant to --

20 THE CLERK: Sign.

21 THE COURT: -- sign that he is  
22 accepting my change in sentencing. Would you just  
23 explain to him what the bottom says there with my  
24 scribble, which is the sentence I gave him?

1 MR. WARMSLEY: Could you insert the  
2 seven days' credit for time served, Judge?

3 THE COURT: Sure. I usually put that  
4 on (inaudible). Seven days' credit. Okay. Did  
5 you get it?

6 THE CLERK: I'm waiting for the green  
7 slip, Your Honor.

8 THE COURT: Nine months house of  
9 correction -- count 1, nine months house of  
10 correction suspended, thirty days to serve,  
11 balance suspended, one year probation.

12 THE CLERK: How long -- nine months in  
13 the house of correction, suspended one year with  
14 probation.

15 THE COURT: Court clinic evaluation and  
16 any treatment as deemed necessary by Probation.

17 THE CLERK: Thank you.

18 THE COURT: Counts 1 and 2 are guilty,  
19 one year probation concurrent with the above. The  
20 V.O.P. is a straight guilty --

21 THE CLERK: Thirty days in the house.

22 THE COURT: -- thirty days house of  
23 correction and terminate.

24 MR. WARMSLEY: Judge, could you make

1 clear as far as Counts 2 and 3 --

2 THE COURT: Yes.

3 MR. WARMSLEY: -- that they are  
4 concurrent with Count 1?

5 THE COURT: Yup.

6 THE CLERK: Judge, actually, the  
7 revocation of the continuance without a finding --

8 THE COURT: Yup.

9 THE CLERK: -- you're invoking a  
10 guilty --

11 THE COURT: Guilty, thirty days --

12 THE CLERK: -- thirty days in the  
13 house, period. There would be no termination of  
14 probation. He's not on probation.

15 THE COURT: Okay.

16 THE CLERK: So --

17 THE COURT: Well, the case is  
18 terminated, however you --

19 THE CLERK: Thank you, thank you, Your  
20 Honor.

21 THE COURT: After service, he serves --

22 THE CLERK: So it's probation -- after  
23 hearing, probation --

24 THE COURT: So you're accepting my

1 recommendation. Miss Bartos, do you understand  
2 what I did?

3 MS. BARTOS: Yes.

4 THE CLERK: Just for the record, 685,  
5 the probation matter, after hearing, probation is  
6 revoked, guilty finding and thirty days in the  
7 house of correct committed, seven days' credit for  
8 time served.

9 THE COURT: Yes.

10 THE CLERK: Thank you, Mr. Warmsley.  
11 Okay. And on criminal docket 0758, count A,  
12 guilty, nine months in the house of correction,  
13 thirty days served, balance suspended one year  
14 with probation, seven days' credit for time  
15 served. Court clinic evaluation and any treatment  
16 that's required. Count 2 is guilty, one year  
17 probation. Count 3, guilty, one year probation.  
18 2 and 3 will run concurrent with Count A, and  
19 we'll make sure the mittimus reflects credit for  
20 time served. That's it, Judge. No victim  
21 witness, Your Honor?

22 THE COURT: No victim witness.

23 THE CLERK: Okay. And no attorney's  
24 fee?

1 THE COURT: And no attorney's fee, and  
2 the probation fee will be waived while and if he's  
3 in treatment.

4 THE CLERK: Yes, Your Honor.

5 THE COURT: Okay?

6 THE CLERK: Thank you. Your Honor,  
7 that would complete the call of the list.

8 THE COURT: Really?

9 THE CLERK: Yes, ma'am.

10 (Whereupon the proceedings  
11 were concluded.)  
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C E R T I F I C A T E

This is to certify the foregoing is a true and accurate record, to the best of my skill and ability, of the proceedings in the matter of the Commonwealth of Massachusetts, Plaintiff, vs. Chad Bartos, Defendant, Docket No. CR0758, heard on March 19, 1999 at Salem District Court, serial no. 116012, tape #59 (747-848, 884-886); tape #60 (0-133).

Lisa M. Cimmino  
Lisa M. Cimmino  
Notary Public

12-8-99  
Date



